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DESCRIPTION OF REVENUE PROVISIONS OF THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

(H.R. 3128; Public Law 99-272)

PREPARED BY THE STAFF

OF THE

JOINT COMMITTEE ON TAXATION

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INTRODUCTION

This pamphlet,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the revenue-related provisions (other than Customs provisions) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (H.R. 3128, P.L. 99-272). The Act was signed into law by the President on April 7, 1986.

The first part of the pamphlet is legislative background relating to the revenue provisions of the Act. The second part is a description of the revenue-related provisions of the Act, and the third part presents the estimated budget effects of the revenue provisions described in this pamphlet.

[1] This pamphlet may be cited as follows: Joint Committee on Taxation, *Description of Revenue Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985* (JCS-9-86), April 25, 1986.

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I. LEGISLATIVE BACKGROUND

House Action

H.R. 3128

The revenue provisions of H.R. 3128 were reported by the House Committee on Ways and Means on July 31, 1985,[2] in response to the fiscal year 1986 budget reconciliation requirements (S. Con. Res. 32). H.R. 3128 was referred, for a period ending not later than September 11, 1985, to: the House Committee on Energy and Commerce for consideration of certain Medicare provisions (discharged on September 11, 1985); the House Committee on Education and Labor for consideration of the Pension Benefit Guaranty Corporation (PBGC) provisions (reported with amendments on September 11, 1985, H. Rep. No. 99-241, Part 2); and the House Committee on the Judiciary for consideration of a Medicare hospital provision (reported with an amendment on September 11, 1985, H. Rep. No. 99-241, Part 3).

H.R. 3128 was passed by the House on October 31, 1985 (245-174, after defeat of a motion to recommit the bill, 183-238).

H.R. 3500

The fiscal year 1986 budget reconciliation provisions other than those reported in H.R. 3128 and H.R. 2100 (farm provisions) were consolidated by the House Committee on the Budget and reported in H.R. 3500 on October 3, 1985.[3] H.R. 3500 was passed by the House on October 24, 1985 (228-199), and included Education and Labor Committee provisions relating to single-employer pension plans and single-employer pension plan termination insurance.

Senate Action

S. 1730

In the Senate, the committee budget reconciliation provisions, including revenue provisions but not including the farm provisions, were consolidated by the Senate Committee on the Budget in S. 1730 and reported on October 2, 1985.[4] S. 1730 was debated by the Senate on October 15-16, 22-24, and November 13-14, 1985.

H.R. 3128

The Senate Committee on Finance considered H.R. 3128 on November 13, 1985, and reported the bill with an amendment in the nature of a substitute (the committee's budget reconciliation provi-

[2] "Deficit Reduction Amendments," H. Rep. No. 99-241, Part 1.
[3] "Omnibus Budget Reconciliation Act of 1985," H. Rep. No. 99-300.
[4] "Consolidated Omnibus Budget Reconciliation Act of 1985," S. Rep. No. 99-146.

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sions as included in S. 1730) on November 14, 1985 (no written report).

On November 14, 1985, the Senate passed H.R. 3128 (93-6) as amended with the Senate provisions of S. 1730 as amended.

Subsequent House and Senate Action

House and Senate conferees appointed

On December 3, 1985, the House Committee on Rules provided a rule (H. Res. 330) to combine the previous House-passed provisions of H.R. 3128 and H.R. 3500 as a House amendment to the Senate amendment to H.R. 3128. The House agreed to H. Res. 330 on December 5, 1985, insisted on its amendments, and requested a conference with the Senate on H.R. 3128. House conferees were appointed on December 5, 1985.

On December 9, 1985, the Senate disagreed to the House amendment to the Senate amendment to H.R. 3128, and agreed to a conference. Senate conferees were appointed on December 9, 1985.

House and Senate conference agreement and votes

Conference was held on H.R. 3128, and a report on the conference agreement was filed on December 19, 1985 (H. Rep. No. 99-453). As filed on December 19, 1985, the conference agreement included Superfund revenue provisions. The Senate agreed to the conference report on December 19, 1985 (78-1). On December 19, 1985, the House disagreed to the conference report and passed the conference agreement (voice vote) with an amendment deleting the Superfund revenue provisions and returned the conference agreement to the Senate. Also on December 19, 1985, the Senate returned the conference agreement (voice vote) to the House with the Superfund revenue provisions.

On December 20, 1985, the House again disagreed to the conference agreement and returned it to the Senate without the Superfund revenue provisions (voice vote). On December 20, 1985, the Senate defeated a motion (30-35) to recede from the Senate amendment to the conference agreement, and asked for another conference. Senate conferees were reappointed on December 20, 1985.

On March 6, 1986, the House receded from its disagreement to the Senate amendment and concurred (voice vote) with a further amendment to the Senate amendment to the prior House amendment to the previous Senate amendment (pursuant to H. Res. 390). On March 14, 1986, the Senate considered the conference agreement as further amended by the House, and agreed with another Senate amendment (voice vote). Neither the March 6 House amendment nor the March 14 Senate amendment included the prior Superfund revenue provisions.

On March 18, 1986, the House disagreed to the March 14 Senate amendment (331-76), while the Senate insisted on its amendment (voice vote). On March 20, 1986, the House receded and concurred in the March 14 Senate amendment to the conference agreement (230-154).

Technical and clerical corrections to the enrolled bill

On March 20, 1986, the House passed H. Con. Res. 305 (voice vote), to make technical and clerical corrections in the enrolled bill (H.R. 3128). The Senate agreed to H. Con. Res. 305 (voice vote) on March 26, 1986.

Enactment Into Law

H.R. 3128 was signed into law by President Reagan on April 7, 1986 (Public Law 99-272).

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II. DESCRIPTION OF REVENUE PROVISIONS

A. Tobacco Excise Tax Provisions

1. Permanent extension of cigarette tax rates (sec. 13201 of the Act and sec. 5701(b) of the Code)

Present and Prior Law

An excise tax is imposed on cigarettes manufactured in or imported into the United States (Code sec. 5701(b)). As of March 14, 1986, the tax rate on small cigarettes was $8 per thousand (i.e., 16 cents per pack of 20 cigarettes). The tax rate on large cigarettes generally was $16.80 per thousand; proportionately higher rates applied to large cigarettes that exceed 6.5 inches in length. Small cigarettes are cigarettes weighing no more than 3 pounds per thousand. Most taxable cigarettes are small cigarettes.

Under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA, P.L. 97-248), these cigarette excise tax rates were scheduled to decrease by one-half on October 1, 1985, to the pre-TEFRA rates (e.g., to 8 cents per pack of 20 for small cigarettes). The higher cigarette tax rates were temporarily extended on several different occasions, the last temporary extension expiring after March 14, 1986.[5]

Explanation of Provision

The Act makes permanent the prior cigarette excise tax rates. Thus, small cigarettes will continue to be taxed at the rate of 16 cents per pack of 20 cigarettes, and large cigarettes will continue to be taxed at the rate in effect on March 14, 1986.

Effective Date

The Act's extension of cigarette excise tax rates is treated as having taken effect on March 14, 1986 (i.e., applies for cigarettes removed after March 14, 1986), for all Federal and State law purposes.[6]

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[5] The cigarette tax rates were extended from October 1, 1985, through November 14, 1985 (P.L. 99-107), through December 14, 1985 (P.L. 99-155), through December 18, 1985 (P.L. 99-181), through December 19, 1985 (P.L. 99-189), and through March 14, 1986 (P.L. 99-201).

[6] This ensures that automatic increases in certain State cigarette taxes, which were scheduled to take place in some States upon a reduction in the Federal tax, did not and will not take effect.

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2. Tax on smokeless tobacco (sec. 13202 of the Act and new sec. 5701(e) of the Code)

Prior Law

Smokeless tobacco products (e.g., chewing tobacco and snuff) have not been subject to Federal excise tax since 1965. A previous excise tax on such products, imposed at a rate of 10 cents per pound, was repealed by the Excise Tax Reduction Act of 1965 (P.L. 89-44).

Explanation of Provision

Excise tax on chewing tobacco.—The Act imposes an excise tax of 8 cents per pound (and a proportionate rate on fractions of a pound) on chewing tobacco manufactured in or imported into the United States. Chewing tobacco is defined as any leaf tobacco that is not intended to be smoked.

Excise tax on snuff.—The Act imposes an excise tax of 24 cents per pound (and a proportionate rate on fractions of a pound) on snuff manufactured in or imported into the United States. Snuff is defined as any finely cut, ground, or powdered tobacco that is not intended to be smoked.

Effective Date

The excise taxes on chewing tobacco and snuff apply to smokeless tobacco removed after June 30, 1986.[6a]

[6a] Under a transitional rule, any person who, on the date of enactment (April 7, 1986), is engaged in the business as a manufacturer of smokeless tobacco (snuff or chewing tobacco), and submits an application (before July 1, 1986) under the Code (subchapter B of chapter 52) to engage in such business, may continue to engage in such business pending final action on the application. Pending such final action on the application, all provisions of chapter 52 shall apply to the applicant as if the applicant were a holder of a permit to manufacture smokeless tobacco under chapter 52.

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B. Black Lung Disability Trust Fund

1. Coal excise tax (sec. 13203 of the Act and sec. 4121 of the Code)

Present and Prior Law

A manufacturers excise tax is imposed on domestically mined coal (other than lignite) sold or used by the producer of the coal. For sales after December 31, 1981 and before April 1, 1986, the rate of tax was $1 per ton for coal from underground mines and 50 cents per ton for coal from surface mines, except that the tax could not exceed four percent of the sales price of the coal. The coal excise tax rates are to revert to pre-1982 rates (50 cents/25 cents per ton; two-percent ceiling) on the earlier of (1) January 1, 1996, or (2) the first January 1 as of which all principal and interest owed to the Treasury by the Black Lung Disability Trust Fund (the "Trust Fund") have been paid.

Explanation of Provision

The Act increases the coal excise tax rate, effective April 1, 1986, to the lesser of (1) $1.10 per ton for coal from underground mines and 55 cents per ton for coal from surface mines, or (2) 4.4 percent of the sales price. As under prior law, the pre-1982 excise tax rates are to be reinstated on the earlier of (1) January 1, 1996, or (2) the first January 1 as of which all principal and interest owed to the Treasury by the Trust Fund have been paid.

Effective Date

The amendments made by the Act apply to sales after March 31, 1986.

2. Trust fund repayable advances (sec. 13203 of the Act and sec. 9501 of the Code)

Present and Prior Law

Amounts equal to the coal excise tax revenues automatically are appropriated to the Black Lung Disability Trust Fund. The Trust Fund pays black lung disability benefits to coal miners (or their survivors) who have been totally disabled by black lung disease in cases where no coal mine operator is found responsible for the individual miner's disease.

Prior law included an unlimited authorization for advances, repayable with interest, from general revenues to the Trust Fund.

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Explanation of Provision

The Act provides that no interest shall accrue with respect to any outstanding repayable advances to the Trust Fund for the period from October 1, 1985, through September 30, 1990.

Effective Date

This provision is effective on the date of enactment (April 7, 1986).

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C. Certain Exemptions From FUTA Tax

1. Nonresident farm workers (sec. 13303(a) of the Act and sec. 3306(c) of the Code)

Prior Law

An exemption from FUTA was provided for wages paid for agricultural labor performed by aliens admitted to the United States pursuant to section 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act (Code sec. 3306(c)(1)(B)). This exemption expired after December 31, 1985.

Explanation of Provision

The FUTA exemption for certain nonresident farm workers is reinstated for wages paid on or after January 1, 1986, but before January 1, 1988.

Effective Date

This provision is effective for wages paid on or after January 1, 1986, and before January 1, 1988.

2. Summer camp counselors (sec. 13303(b) of the Act and sec. 276(b) of the Tax Equity and Fiscal Responsibility Act of 1982)

Prior Law

A one-year exemption from FUTA was provided for wages paid for 1983 by certain summer camps for employees who were full-time students (sec. 276(b) of P.L. 97-248).

Explanation of Provision

The FUTA exemption for wages paid to summer camp counselors who are full-time students is reinstated on a permanent basis, for wages paid after September 19, 1985.

Effective Date

This provision is effective for wages paid after September 19, 1985.

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3. Fishing boat crew members (sec. 13303(c) of the Act and sec. 822(b) of the Economic Recovery Tax Act of 1981)

Prior Law

An exemption from FUTA was allowed for remuneration paid during 1981-84 to certain fishing boat crew members. This exemption applied only if the remuneration depended on the boat's catch and the crew normally consisted of fewer than 10 members (sec. 822(b) of P.L. 97-34).

Explanation of Provision

The FUTA exemption for wages paid to certain fishing boat crew members is reinstated on a permanent basis.

Effective Date

This provision is effective for wages paid after December 31, 1980.

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D. Medicare Coverage and Hospital Insurance Tax for New State and Local Government Employees (Sec. 13205 of the Act, sec. 218 of the Social Security Act, and secs. 3101, 3111, and 3121 of the Code)

Present and Prior Law

State and local government employees hired before April 1, 1986 were covered for social security and Medicare benefits, and such employees and their employers were subject to the FICA tax (including the hospital insurance (Medicare) portion), only if the State and the Secretary of Health and Human Services had entered into a voluntary agreement providing such coverage (sec. 218 of the Social Security Act). Governmental units whose employees have such coverage pursuant to this type of voluntary agreement may not withdraw their employees from coverage.

Medicare coverage (and the corresponding hospital insurance payroll tax) is mandatory for Federal employees.

For wages paid in 1986, the employer-employee hospital insurance tax rate is 2.9 percent (i.e., 1.45 percent each on the employer and employee) of the first $42,000 of wages (secs. 3101, 3111, and 3121(a)).

Explanation of Provision

Medicare coverage is extended on a mandatory basis to State and local government employees hired after March 31, 1986, for services performed after that date. Also, a State may extend Medicare coverage (without extending coverage for social security retirement and survivor benefits) to State and local government employees hired prior to April 1, 1986 by voluntary agreement with the Secretary of Health and Human Services. In either case, such employees and their employers are liable for the hospital insurance (Medicare) portion of the FICA tax.

Medicare coverage and the hospital insurance tax are not extended to individuals hired by a State or political subdivision to relieve unemployment; patients or inmates working in a hospital, home, or other institution; temporary State or local government workers hired for certain emergencies; or certain students working in District of Columbia hospitals.

The collection of Medicare contributions for State and local government employees who are newly covered by the Act is to be carried out by the State social security office in cases where the local jurisdiction (or State government) currently has in effect an agreement covering some employees of the jurisdiction under social security. Those jurisdictions (e.g., a city, county, or other government subdivision) within a State that have no employees currently covered under such an agreement must make payments for Medicare

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coverage of their employees under the same procedures as private employers currently follow. The Act also makes certain technical changes relating to payment of hospital insurance taxes and the definition of Medicare-qualified government employment.

Effective Date

Medicare coverage (and the corresponding hospital insurance payroll tax) is extended on a mandatory basis to State and local government employees hired after March 31, 1986, for services performed after that date. Also, effective April 1, 1986, a State may extend Medicare coverage (and the corresponding hospital insurance payroll tax) to State and local government employees hired prior to April 1, 1986 by voluntary agreement with the Secretary of Health and Human Services, for services performed after March 31, 1986.

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E. Extension of Moratorium on Application of Research and Experimental Expense Allocation Regulation (Sec. 13211 of the Act and sec. 861 of the Code)

Present and Prior Law

Foreign tax credit and source rules

All income has either a U.S. source or a foreign source. The foreign tax credit can offset U.S. tax on foreign source taxable income, but not U.S. tax on U.S. source taxable income. (This is known as the foreign tax credit limitation.) A shift in the source of income from foreign to U.S. may increase U.S. tax by reducing the foreign tax credit limitation (i.e., reducing foreign source taxable income).

In determining foreign source taxable income for purposes of computing the foreign tax credit limitation, and for other tax purposes, Code sections 861-863 require taxpayers to allocate or apportion expenses between foreign source income and U.S. source income. A shift in the allocation of expenses from U.S. to foreign source gross income decreases foreign source taxable income. This decrease may increase U.S. tax by reducing the foreign tax credit limitation.

Research and experimental expense allocation regulation

Treasury Reg. sec. 1.861-8 (published in 1977) sets forth detailed rules for allocating and apportioning several categories of expenses, including deductible research and experimental expenditures ("research expenses"). The regulation provides that research expenses are ordinarily considered definitely related to all gross income reasonably connected with one or more of 32 product categories based on two-digit classifications of the Standard Industrial Classification ("SIC") system. Research expenses are not traced solely to the income generated by the particular product which benefited from the research activity. Instead these expenses are associated with all the income within the SIC product group in which the product is classified.

Research expenses identified with an SIC product group are generally apportioned to foreign source income based on the ratio of total foreign source sales receipts (or, at the taxpayer's option and subject to certain conditions, total foreign source gross income) within the SIC product group to the taxpayer's total worldwide sales receipts (or gross income) within the SIC product group. However, research expenses incurred to meet legal requirements imposed with respect to improvement or marketing of specific products or processes are allocable entirely to one geographic source if the research and development cannot reasonably be expected to generate income (beyond de minimis amounts) outside that geographic source. In addition, the regulation provides that 30 percent

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of research expense is apportioned to the geographic source where over half of the taxpayer's research and development is performed. A taxpayer can choose to apportion to this geographic source greater than 30 percent of research expense if he establishes that a higher percentage is warranted because the research and development is reasonably expected to have a very limited or long-delayed application outside that geographic source. Treas. Reg. sec. 1.861-8 generally requires a smaller allocation of research expense to foreign source income than a predecessor regulation proposed in 1973 would have required.[7]

Temporary moratorium

The Economic Recovery Tax Act of 1981 (ERTA) provided that, for a taxpayer's first two taxable years beginning after the date of its enactment (August 13, 1981), all research and experimental expenditures (within the meaning of Code sec. 174) which were paid or incurred in those taxable years for research activities conducted in the United States were to be allocated or apportioned to income from sources within the United States (sec. 223 of ERTA). This two-year moratorium on the application of the research and experimental expense allocation rules of Treas. Reg. sec. 1.861-8 was effectively extended for two additional years by the Tax Reform Act of 1984. Under the 1984 Act (sec. 126), for taxable years beginning generally after August 13, 1983, and on or before August 1, 1985, all of a taxpayer's research and experimental expenditures (within the meaning of Code sec. 174) attributable to research activities conducted in the United States are to be allocated to sources within the United States for purposes of computing taxable income from U.S. sources and from sources partly within and partly without the United States.

Explanation of Provision

The Act effectively extends for one year the moratorium on the application of the research and experimental expense allocation rules of Treas. Reg. sec. 1.861-8. Under the Act, all of a taxpayer's research and experimental expenditures (within the meaning of Code sec. 174) attributable to research activities conducted in the United States are to be allocated to sources within the United States for purposes of computing taxable income from U.S. sources and from sources partly within and partly without the United States.

This special allocation rule applies only to the allocation of research and experimental expenditures for the purposes of geographic sourcing of income. It does not apply for other purposes, such as the computation of combined taxable income of a DISC (or FSC) and its related supplier.

The extension of the moratorium does not apply to any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of depreciable or depletable property to be used in connection with research or experimentation.

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[7] See 38 Fed. Reg. 15,840 (1973).

Effective Date

The provision generally applies to the first taxable year beginning after August 1, 1985 and on or before August 1, 1986 only. However, if the taxpayer's fourth taxable year beginning after the general effective date of the Economic Recovery Tax Act of 1981 (August 13, 1981) was eligible for the prior law moratorium on the application of the Treasury research expense allocation rule under a special effective date provision (sec. 126(c)(2) of the Tax Reform Act of 1984), then the provision also applies to the taxpayer's first taxable year following that fourth taxable year.

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F. Fringe Benefit Rules for Airlines and Certain Airline Affiliates and Air Transportation Organizations (Sec. 13207 of the Act and sec. 132 of the Code)

Present and Prior Law

Under the Deficit Reduction Act of 1984, certain miscellaneous fringe benefits provided by an employer on a nondiscriminatory basis are excluded from the recipient employee's gross income for Federal income tax purposes and from the wage and benefit bases for purposes of social security and other employment taxes, effective January 1, 1985 (Code sec. 132). These benefits include "no-additional-cost" services and qualified employee discounts provided by an employer to an employee for the use of the employee or for the use of the employee's spouse or dependent children.

The exclusions for no-additional-cost services or qualified employee discounts apply only where the service or property furnished to the employee is of the same type of service or property that is sold to the public in the ordinary course of the line of business of the employer in which the employee is performing services. For this purpose, all employees of all corporations in a controlled group of corporations, or all employees of certain commonly controlled businesses, are treated as employed by a single employer.

Any fringe benefit that does not qualify for exclusion under a specific statutory provision is includible in gross income, and subject to employment taxes, at the excess of its fair market value over any amount paid by the employee for the benefit.

Explanation of Provisions

Parents of airline employees

Under the Act, the value of the use of free or discounted airline passes by parents of an airline employee [8] is excluded from the employee's income and wages on the same basis as where such benefits are used by the employee's spouse or dependent children.

Airline affiliates

The Act excludes from income and wages the value of the use of airline passes by certain individuals who are directly engaged in providing airline-related services as employees of a corporation that is (1) predominantly engaged in airline-related services, and (2) is a member of an affiliated group that includes an airline. The exclusion applies on the same basis as in the case of employees of the airline corporation who perform airline services.

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[8] For purposes of this rule, the term employee does not include a surviving spouse of a deceased, retired, or disabled employee, i.e., does not include an individual described in sec. 132(f)(1)(B)).

The term airline-related service means any of the following services provided in connection with air transportation: (1) catering; (2) baggage handling; (3) ticketing and reservations; (4) flight planning and weather analysis; (5) restaurants located at an airport; (6) gift shops located at an airport; and (7) such other similar services provided to and directly benefiting airlines as may be prescribed by Treasury regulations.

Air transportation organizations

Under the Act, if an individual performs services for a qualified air transportation organization, the services are performed primarily for persons engaged in providing air transportation, and the services are of the kind that (if performed on September 12, 1984) would qualify the individual for no-additional-cost services in the form of air transportation, then the qualified air transportation organization is treated as engaged in the line of business of air transportation with respect to that individual.

An organization is considered a qualified air transportation organization if (1) the organization (or a predecessor) was in existence on September 12, 1984; (2) the organization either (a) is described in Code section 501(c)(6) and membership of the organization is limited to entities engaged in the transportation by air of individuals or property for compensation or hire, or (b) is a corporation all the stock of which is owned entirely by entities engaged in the transportation by air of individuals or property for compensation or hire; and (3) the organization is operated in furtherance of the activities of its members or owners.

Transitional rule

A grandfather exception is provided to the line-of-business limitation for tax-free treatment of airline passes furnished to individuals employed, as of September 12, 1984, by Pan American World Services, Inc.

Effective Date

The provisions are effective on January 1, 1985.

G. Netting of Gains and Losses by Cooperatives (Sec. 13210 of the Act and secs. 521 and 1388 of the Code)

Present and Prior Law

In general, present law permits any corporation operating on a cooperative basis, including a so-called tax-exempt farmers' cooperative, to exclude from taxable income amounts paid as patronage dividends or certain other amounts paid or allocated to members, to the extent of net income generated from transactions with members (sec. 1382). In addition, tax-exempt farmers' cooperatives generally may exclude such amounts to the extent of all net income, and also are granted a deduction to a limited extent for dividends paid on common stock (sec. 521).

Patronage dividends are amounts paid or allocated by the cooperative to a patron (1) based on the quantity or value of business done with or for such patron, (2) under a pre-existing obligation of the cooperative to distribute such amounts, and (3) which are determined by reference to the net earnings of the organization from business done with or for its patrons (sec. 1388(a)).

In general, a tax-exempt farmers' cooperative is specifically defined in section 521(b) as a farmers', fruit growers', or like association organized and operated on a cooperative basis either for the purpose of marketing the products of its members or others, or for the purpose of purchasing supplies and equipment for members or other persons. In the case of a tax-exempt farmers' cooperative that markets products, the proceeds of sale by the cooperative less necessary expenses of sale must be turned over to the members or other producers on the basis of the quantity or value of the products furnished; in the case of a tax-exempt farmers' cooperative that purchases supplies and equipment, the purchased goods must be made available at the cooperative's cost, plus necessary expenses.

The United States Tax Court has addressed certain issues related to the netting of earnings and losses of different allocation units by a cooperative in three different factual settings. In *Associated Milk Producers* v. *Comm'r*, 68 T.C. 729 (1977), the Internal Revenue Service asserted that a cooperative was not entitled to carry over a net operating loss deduction where doing so would offset patronage income in a taxable year with losses from a prior year. However, the court held that the carryover was allowed in circumstances that the court considered reasonable for management to offset the income and loss. In *Ford-Iroquois FS, Inc.* v. *Comm'r*, 74 T.C. 1213 (1980), the Internal Revenue Service asserted that a non-exempt cooperative was not entitled to carry over a net operating loss deduction to the extent that losses from prior years' marketing and storage operations would offset patronage income from farm supply operations. However, the court allowed the carryover, noting that

there was substantial overlap of the patrons of the two operations and the allocations otherwise were fair. In *Lamesa Cooperative Gin* v. *Comm'r*, 78 T.C. 894 (1982), the Internal Revenue Service asserted that an exempt cooperative was required to account separately for its purchasing and marketing operations, and included in the cooperative's income certain patronage dividends to the extent income from the cooperative's purchasing operation offset losses from its marketing operation. The court nevertheless held that the cooperative could net the income and loss where the purchasing operation was so small that it would have been unreasonable to account for it separately.

Explanation of Provision

Netting earnings and losses

The Act provides that a cooperative is not ineligible for treatment as a tax-exempt farmers' cooperative if it offsets certain earnings and losses in determining any amount available for distribution to patrons. For this purpose, the losses that are attributable to one or more allocation units (including a loss that is carried over from another year) may be offset against earnings of one or more other allocation units, but only to the extent such earnings and losses are derived from business done with or for patrons. Such patronage earnings and losses may be offset without regard to whether the allocation units whose earnings or losses are offset are functional, divisional, departmental, geographic, or otherwise.

The Act also provides that offsetting of earnings and losses, as described above, may be used, at the option of a cooperative for determining the net earnings of the cooperative for the purpose of paying patronage dividends. The Act provides special rules relating to netting of earnings and losses following certain acquisitions of one cooperative by another.

The Act provides that the amendments made by the Act are not to be construed to infer that a change in law is intended as to whether nonpatronage losses may or may not offset patronage earnings, and that any determination of such issue is to be made as if such amendments had not been enacted.

Notice requirement

The Act provides that a cooperative that offsets earnings and losses must notify members who may have been affected by such offsetting. It is intended that all such patrons must be notified regardless of whether any patronage dividends were in fact distributed, so long as the offsetting may have affected any amount which the patron may otherwise have received in the current or future year, whether in the form of patronage dividend, per-unit retain allocation, notice of allocation, or any other amount distributed or allocated to the member. The notice must be sent to such members by no later than the 15th day of the ninth month following the close of the cooperative's taxable year.

The notice must state that the cooperative has offset earnings and losses of one or more of its allocation units and that such offset may have affected the amount that is being distributed to the patron. The notice must state generally the identity of the offset-

ting allocation units. The notice also must state briefly what rights, if any, that such patron may have to additional financial information of such organization under the terms of its charter, articles of incorporation, bylaws, and any provision of law. Although the notice must specify the identity of the offsetting allocation units (but not which unit's earnings were offset by which unit's losses), the cooperative is not required to disclose in the notice any detailed or specific data that it determines would disclose commercially sensitive information that could result in a competitive disadvantage to the cooperative or could create a competitive advantage to a competitor.

Failure to comply with this notice requirement, upon notification of such failure by the Secretary of the Treasury or his delegate, requires a cooperative to provide a notice that meets the statutory requirements to all patrons who previously received the inadequate notice, but will have no other tax consequences for the cooperative. A cooperative that does not offset gains and losses of any allocation units is not subject to the notice requirement.

Effective Date

The provisions of the Act relating to cooperatives generally are effective for taxable years beginning after December 31, 1962. However, the provision relating to the notification of cooperative members is effective for taxable years beginning on or after the date of enactment of the Act (April 7, 1986).

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H. Railroad-Related Provisions

1. Tax treatment of railroad retirement benefits (sec. 13204 of the Act and sec. 86(d) of the Code)

Present and Prior Law

Under prior law, a portion of Railroad Retirement system benefits computed by using the social security benefit formula (tier 1 benefits) were subject to Federal income tax for taxpayers whose incomes exceed certain levels (generally, $25,000 for unmarried individuals and $32,000 for married individuals filing a joint return). Other benefits under the Railroad Retirement system are subject, under prior and present law, to Federal income tax for all recipients to the extent the payments exceed the amount of the individual's previously taxed contributions to the plan.

Explanation of Provision

Under the Act, the same income tax treatment applicable to social security benefits applies to a portion of tier 1 Railroad Retirement benefits equal to the amount of the annuity under the Railroad Retirement Act of 1974 that equals the social security benefits to which the individual would have been entitled if all of the individual's employment on which the annuity is based had been employment for social security benefit purposes. In addition, a minimum monthly annuity benefit (described in sec. 3(f)(3) of the Railroad Retirement Act of 1974) are taxed in the same manner as social security benefits. Other tier 1 Railroad Retirement benefits are taxed under the rules that apply to all other payments under the Railroad Retirement system.

Thus, Railroad Retirement disability benefits that are payable to individuals who would not be entitled to social security disability benefits, or in excess of the social security disability benefits to which an individual would be entitled, generally are fully taxable. Similarly, Railroad Retirement benefits that are payable at an age earlier than social security benefits or in an amount greater than social security benefits are fully taxable.

Effective Date

The provision is effective for monthly benefits for which the generally applicable payment date is after December 31, 1985.

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2. Railroad unemployment tax (secs. 13301-02 of the Act and secs. 3321-3323 of the Code)

Prior Law

Loan authority

The railroad unemployment insurance (RRUI) program, which provides unemployment and sickness benefits, is funded by unemployment taxes paid by rail employers. The RRUI program has been authorized to borrow from the railroad retirement program as needed to pay benefits; such loans are to be repaid when the Railroad Retirement Board determines that the RRUI account has sufficient funds to make such a repayment. The RRUI program's authority to borrow additional funds from the railroad retirement program expired after December 19, 1985.

Loan repayment tax

The Railroad Retirement Solvency Act of 1983 established a repayment tax, applicable to the first $7,000 in wages paid annually to rail employees, that is scheduled to begin on July 1, 1986 and to expire on September 30, 1990 (Code secs. 3321-3323). As originally enacted, the rates were as follows:

	Percent
1986 (July 1–Dec. 31)	2.0
1987	2.3
1988	2.6
1989	2.9
1990 (Jan. 1–Sept. 30)	3.2

Explanation of Provisions

Loan authority

The authority of the RRUI program to borrow from the railroad retirement program is reinstated on a permanent basis.

Loan repayment tax

The rate of the repayment tax is modified as follows, beginning July 1, 1986 and expiring September 30, 1990:

	Percent
1986 (July 1–Dec. 31)	4.3
1987	4.7
1988	6.0
1989	2.9
1990 (Jan. 1–Sept. 30)	3.2

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Loan surtax

An automatic surcharge of 3.5 percent on the loan repayment tax base is levied if the RRUI program must borrow from the retirement program. The surtax proceeds are to be used to repay such loans made after September 30, 1985, and is in effect for any year if on September 30 of the prior year any principal or interest from a loan after September 30, 1985, remains unpaid.

Effective Date

The tax provisions apply to remuneration paid after June 30, 1986. The extension of borrowing authority is effective on enactment (April 7, 1986).

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I. Income Averaging for Former Students (Sec. 13206 of the Act and sec. 1303 of the Code)

Present and Prior Law

The rules for income averaging permit individuals who have sharply fluctuating annual incomes to mitigate, in part, the effects of rate progressivity in high-income years. Under these rules, eligible individuals may reduce their tax liabilities during a year for which their income is at least 40 percent greater than their average income for the immediately preceding three years (the "base years"), by applying a lower marginal rate than otherwise would be used to a portion of the current year's income.

To use income averaging, an individual generally must meet one of several alternative standards intended to restrict its availability to individuals who were self-supporting during the base years. (Even if an individual had not been self-supporting during one or more of the base years, income averaging was available under prior law if the individual had attained the age of 25 and was not a full-time student during at least four years after attaining the age of 21.) Under prior law, when an individual first entered the workforce after graduating from college or graduate school, the individual could be eligible for income averaging simply because he or she became a full-time worker.

Explanation of Provision

Under the Act, an individual who was a full-time student in any base year generally is not eligible for income averaging in the current year.

However, the provision does not preclude eligibility for income averaging for a married individual who was a full-time student in a base year if the individual files a joint return in the current year and not more than 25 percent of the adjusted gross income reportable on the joint return is attributable to that individual. Thus, the provision does not preclude income averaging if (1) only one spouse was a full-time student during one or more of the base years and (2) that spouse's income was a relatively insubstantial portion of the couple's income during the current year.

Consistent with these changes, the exception to the requirement that an eligible individual must be self-supporting during each of the base years, applicable under prior law in the case of individuals who are 25 years of age or older and were not full-time students during at least four years after they reached 21 years of age, is repealed.

Effective Date

The provision is effective for taxable years beginning after December 31, 1985.

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J. Tax-Exempt Bonds for a Regional Pollution Control Authority (Sec. 13209 of the Act and sec. 103 of the Code)

Present and Prior Law

Interest on State and local government obligations generally is exempt from Federal income tax. Interest on industrial development bonds (IDBs) is tax-exempt only if the bonds are issued to finance certain exempt activities or are small-issue IDBs. The financing of air or water pollution control facilities is an eligible exempt activity.

The use of tax-exempt IDBs to acquire facilities generally is prohibited if a substantial user of the facilities before the acquisition will be a substantial user after the acquisition. Additionally, use of IDBs to finance the acquisition of existing property is prohibited, unless an amount equal to at least 15 percent of the bond proceeds is spent for rehabilitation of the property.

The aggregate volume of most IDBs and all student loan bonds issued by a State (and local issuers therein) may not exceed the greater of $150 per resident of the State or $200 million.

In 1982, the Congress enacted a limited provision permitting the Gulf Coast Waste Disposal Authority to acquire certain existing air or water pollution control facilities with the proceeds of tax-exempt IDBs. These facilities were to be owned and operated by the Authority in order to maintain or improve the control of pollutants.

Explanation of Provision

The Act permits tax-exempt IDBs to be issued, under certain conditions, for use by the Gulf Coast Waste Disposal Authority to acquire 23 listed existing air or water pollution control facilities which the Authority itself will operate. These conditions are (1) that the bonds will be subject to the applicable State volume limitation for private activity bonds and all other restrictions applicable to similar IDBs (other than the restriction on acquisition of existing property); (2) that the purchase price of the facilities will not exceed their fair market value; (3) that the fees imposed on any seller for use of any facilities after the sale will not be less than the amounts charged for comparable use of such facilities to persons other than the seller; (4) that no person other than the Authority be considered the owner of the facilities for Federal income tax purposes; and (5) that the total volume of bonds issued for this purpose not exceed $200 million (no part of which was issued before 1986, and no more than $100 million of which will be issued before 1987).

Under the Act, only facilities the original use of which commenced before September 3, 1982, are to qualify for tax-exempt fi-

nancing (i.e., those facilities contemplated at the time of the original 1982 legislation).

Effective Date

This provision is effective on the date of enactment (April 7, 1986), with respect to facilities as described above.

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K. Minimum Tax on Certain Capital Gains of Insolvent Farmers (Sec. 13208 of the Act and sec. 57 of the Code)

Present and Prior Law

Individuals are subject to a minimum tax, applying at a 20-percent rate to a base determined by adding certain preferences to the taxpayer's regular taxable income (in addition to certain other adjustments). Minimum tax liability is payable only to the extent that it exceeds the taxpayer's regular tax liability. The minimum tax preference items include the portion of net capital gain that is excluded for regular tax purposes under section 1202.

Explanation of Provision

The Act applies a special minimum tax preference rule when an insolvent individual in the trade or business of farming transfers farmland used in that trade or business to a creditor in cancellation of indebtedness, or sells or exchanges such property to or with any third party under threat of foreclosure. Under the special rule, the regular-tax exclusion for certain capital gains attributable to such a transfer or disposition by a farmer is not treated as a tax preference item for minimum tax purposes. An individual constitutes a farmer for purposes of this rule if 50 or more percent of the individual's gross income for the three taxable years preceding the transfer were attributable to the trade or business of farming (within the meaning of sec. 2032A(e)(5)).

If the special rule applies to a transfer of farmland, the amount of the reduction in the taxpayer's minimum tax preference for the section 1202 capital gains exclusion cannot exceed the amount of the taxpayer's insolvency immediately prior to the transfer. For this purpose, insolvency is defined as an excess of liabilities over the fair market value of assets.

This definition is to be interpreted in the same manner as the identical definition of insolvency set forth in section 108(d)(3). However, it is intended that the Treasury has authority, through regulations or rulings, to determine whether, and to what extent, nonrecourse debt is to be treated under the special rule in the same manner as under section 108(d)(3).

In the case of an insolvent farmer who makes one or more transfers of farmland to which the special rule applies, the calculation of the taxpayer's tax preference under section 57(a)(9)(A) (defining the minimum tax capital gain preference for individuals) is made in several steps. First, the taxpayer determines the amount of his or her section 1202 net capital gain deduction (as determined for regular tax purposes without making any adjustment for transfers made while insolvent). Second, the taxpayer determines the amount of his or her net capital gain, if any, with respect to each

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transfer to which the special rule applies. For each such transfer, this amount is multiplied by the percentage applied in determining the section 1202 deduction (60 percent under present law). The amount derived from this calculation, to the extent not in excess of the amount of the taxpayer's insolvency immediately before the transfer, is then subtracted from the amount of the taxpayer's regular tax deduction under section 1202.

In applying the special rule, "double-counting" is not allowed with respect to the amount of insolvency. Thus, for example, if a taxpayer makes two transfers qualifying under the special rule during the same taxable year, the amount of the taxpayer's insolvency for purposes of the second transfer is reduced by the amount subtracted (for purposes of sec. 57(a)(9)) from the taxpayer's regular tax deduction under section 1202 as a result of the first transfer.

In the case of a taxpayer who, during the same taxable year, realizes gain on some transfers to which the special rule applies, and loss on other such transfers, the rule applies only to the extent that such gain exceeds such losses. (In any event, the adjustment made under the special rule to the amount of a taxpayer's capital gain preference is still limited to the relevant amounts of insolvency.) It is expected that Treasury regulations will set forth the mechanics of the application of the special rule.

The provision has no effect on the application of other rules of tax law, including the rules for measurement of income from discharge of indebtedness and for the reduction of tax attributes (such as credit carryovers and net operating losses) pursuant to section 108.

Effective Date

The provision is effective for transfers, sales, or exchanges made after December 31, 1981.

L. Limitation on Issuance of U.S. Bonds (Sec. 13212 of the Act and 31 U.S.C. 3102(a))

Present and Prior Law

Obligations of the United States are defined as bonds if they have a maturity when issued that is longer than 10 years. The rate of interest that may be paid on a bond may not exceed 4-1/4 percent, except that up to $200 billion in outstanding bonds with rates of interest above 4-1/4 percent could be issued to the public under prior law. The $200 billion ceiling was enacted on May 25, 1984. The exception for a specified amount of bonds—initially $10 billion—was enacted in 1971, and it applied to all bonds with rates above the ceiling. An amendment in 1973 applied the limitation only to bonds held by the public, i.e., holdings of Federal agencies and the Federal Reserve Banks were not included.

Explanation of Provision

The Act increases the exception from the interest rate ceiling by $50 billion, thus raising the level of the exception to $250 billion. With the increased authority, the Treasury Department is expected to be able to continue to operate in the long-term bond market through 1986 with its current scheduling for long-term bonds.

Effective Date

The provision is effective on the date of enactment (April 7, 1986).

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M. Authorization of Increased Funds to IRS for Revenue Enforcement and Related Purposes (Sec. 13213 of the Act)

Present and Prior Law

The Administration's initial budget request for fiscal year 1986 recommended a decrease in IRS funding levels as compared with fiscal year 1985. The conference report on H.R. 3036 (the Treasury, Postal Service and General Government Appropriations Act for fiscal year 1986) would have restored that decrease and provided for an increase in fiscal year 1986 of $76 million over the Administration's revised budget request. The President vetoed H.R. 3036 on November 15, 1985.

Explanation of Provision

The Act authorizes to be appropriated $46.5 million for each of fiscal years 1986, 1987, and 1988 for the use of the IRS to employ 1,550 additional agents and examination employees. This appropriation is in addition to any other amounts authorized to be appropriated to the IRS for those fiscal years.

The Act also includes a sense of the Congress resolution that both the restoration of the funding cuts initially proposed by the Administration to the IRS budget for fiscal year 1986 and the further increase in the IRS budget as recommended by the House Committee on Appropriations in H.R. 3036 as reported are necessary for the efficient operation of the government and to carry out the purposes of the Budget Reconciliation Act.

N. Social Security Coverage and Revenue Provisions

1. Exemption from social security coverage and earnings test for retired (senior status) Federal judges on active duty (sec. 12112 of the Act and sec. 3121(i)(5) of the Code)

Present and Prior Law

Federal judges are appointed for life. Once a judge qualifies for retirement (senior status), he or she continues to receive full pay, whether or not the judge chooses to continue on active duty in the judiciary. Prior to enactment of P.L. 98-21, Federal judges, like all Federal employees, were excluded from social security coverage. Additionally, the salaries received by judges who had achieved senior (retired) status had been determined not to be wages for purposes of the social security earnings test.

The 1983 Social Security Amendments (P.L. 98-21) provided that all active Federal judges would be covered by social security beginning January 1, 1984. This provision applied to both current and future judges. P.L. 98-21 also specifically provided that salaries received by judges who achieve senior (retired) status but who continue on active duty would be considered wages for social security coverage purposes to the extent that their pay was attributable to periods when they were performing judicial services. Those earnings would also cause reductions in the judges' benefits under the social security earnings test. Subsequently, P.L. 98-118 delayed the effective date of this provision until January 1, 1986.

Explanation of Provision

For purposes of the Social Security Act, the provision excludes from the definition of wages the amounts received by Federal judges who meet the criteria for retirement on salary (e.g., age 65 with 15 years of service or age 70 with 10 years of service), retire, and perform active duty. The effect of this exclusion is to exempt the pay of retired Federal judges from social security taxes and to preclude it from being counted for social security earnings test purposes.

Effective Date

The provision is effective with respect to services performed after December 31, 1983.

2. Coverage of Connecticut State Police (sec. 12114 of the Act and sec. 218 of the Social Security Act)

Present and Prior Law

Under the Social Security Act, only States specifically listed in the Act may extend social security coverage to police officers who are covered under other retirement programs. The State of Connecticut is not listed. Listed States may only extend coverage in one of two ways: (1) by covering all current and future employees of the affected group, or (2) by covering all future employees and those current employees who desire coverage by so indicating through a referendum conducted by the employer.

Explanation of Provision

The Act allows the State of Connecticut, if the Governor so requests, to extend social security coverage to State police hired on or after May 8, 1984, without conducting a referendum of the affected employees.

Effective Date

The provision applies to individuals hired on or after May 8, 1984, who are members of the Tier II plan of the Connecticut State Employee Retirement System, with respect to services performed after the date of enactment of this Act (April 7, 1986).

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3. Taxation of social security benefits received by citizens of American Samoa (sec. 12103 of the Act and sec. 932(c) of the Code)

Present and Prior Law

Citizens of American Samoa are generally treated as nonresident aliens for purposes of taxation of social security benefits. Thus, U.S. income taxes are withheld from their social security benefits at a 15-percent rate. Citizens of other U.S. territories are exempt from the withholding requirement.

U.S. citizens and residents generally are taxable on one-half of social security benefits if their income exceeds a certain level ($25,000 for a single individual, and $32,000 for a joint return). Thus, under prior law, withholding applied to U.S. social security benefits payable to citizens of American Somoa, but not to citizens of other U.S. territories.

Explanation of Provision

The Act exempts social security benefit payments to citizens of American Samoa (if they are not otherwise U.S. citizens and if they are not U.S. residents) from U.S. income tax, provided that American Samoa taxes those payments in a way equivalent to the manner of U.S. taxation of social security benefit payments to U.S. individuals (under current law, one-half of social security benefits if income exceeds the $25,000/$32,000 floor). Therefore, there will be no withholding on such payments.

Effective Date

The provision applies to social security benefits received after December 31, 1983, provided that American Samoa provides for taxation equivalent to U.S. treatment of these benefits within 15 months after the date of enactment (April 7, 1986).

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O. Continued Health Plan Coverage (Secs. 10001-10003 of the Act, secs. 106 and 162 of the Code, new secs. 601-609 of ERISA, and new secs. 2201-2208 of the Public Health Service Act)

Present and Prior Law

Present law includes tax incentives designed to encourage employers to provide health benefits to their employees. Employer contributions to a plan providing accident or health coverage, and certain benefits actually paid under such plans, are not subject to income tax, social security tax, or unemployment tax. At the same time, employer contributions to fund such excludable medical benefits are deductible, within limits.

A deduction is allowed to an employer for compensation paid to employees in the form of contributions to or benefits paid under a health plan, provided such costs constitute ordinary and necessary business expenses (sec. 162).

Effective for taxable years beginning after 1981, no deduction is permitted for expenses paid or incurred by an employer for a group health plan if the plan differentiates in the benefits it provides between individuals having end stage renal (kidney) disease and other individuals (sec. 162(i)(1)). Thus, no deductions are permitted for contributions to a group health plan that differentiates directly or indirectly on the basis of the existence of end stage renal disease or the need for renal dialysis.

Under prior law, there were no Federal requirements that employer-based group health insurance plans provide continuation options for any individuals who lose coverage in the health plan under any circumstances.

Under present law, an employer's contributions to a plan providing accident or health benefits, whether insured or self-insured, are excludable from the employee's income (sec. 106). Reimbursements to employees under an employer's health plan for costs incurred for medical expenses (within the meaning of sec. 213), and payments unrelated to absence from work, are excluded from the employee's gross income except to the extent attributable to deductions allowed (under sec. 213) for any prior year (sec. 105(b)). Similar exclusions apply for employment tax purposes.

Other benefits actually paid under accident and health plans, such as certain disability benefits, generally are includible in the employee's gross income to the extent attributable to employer contributions (sec. 105(a)). In the case of a self-insured medical reimbursement plan (sec. 105(h)), some or all of the exclusion is denied for benefits paid to any employee who is among the 5 highest-paid officers, a 10-percent shareholder, or among the 25-percent highest-paid employees if the program discriminates in favor of this group as to either eligibility to participate or the medical benefits actually provided under the plan.

Explanation of Provisions

In general

Under the Act, no deduction is permitted for employer contributions (including contributions made on behalf of an employee under a cafeteria plan) to any group health plan if that plan or any other plan of the employer fails to provide qualified beneficiaries a continuation coverage election. The election must be provided for previously covered family members of deceased, divorced (or separted), or Medicare-eligible employees, employees who have separated from service (or reduced hours), and certain children who would otherwise lose coverage under the terms of the plan upon attainment of majority.

In addition, no income tax exclusion is permitted under the Act for any highly compensated individual (as defined in sec. 105(h)) if the plan in which the individual participates or any other group health plan maintained by the employer fails to provide continuation of coverage.

The Act provides that eligibility for continuation coverage may not be conditioned directly or indirectly upon the insurability of the qualifying beneficiary.

As under present law, a group health plan is any employer-provided plan to provide medical care to employees, former employees, or the families of such employees or former employees directly or through insurance reimbursement or otherwise.

Exception for certain employers

The Act generally requires that continuation coverage be provided under any employer-provided group health plan. However, the income and employment tax sanctions do not apply in the case of a plan established and maintained by (1) an employer that normally employed 20 or fewer employees on a typical business day during the preceding calendar year; (2) the Government of the United States, the government of any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing entities; or (3) a church or convention or association of churches.

Election of continuation coverage

Under the Act, all qualified beneficiaries who would otherwise lose coverage as a result of a qualifying event must have the right to elect, within the 60-day period beginning on the date of the qualifying event, to continue coverage. Qualifying events include (1) the death of the covered employee; (2) the reduction of hours or separation from service (other than by reason of the employee's gross misconduct) of the covered employee (whether voluntary or involuntary); (3) the divorce or legal separation of the covered employee from the employee's spouse; (4) the covered employee's commencement of entitlement to Medicare coverage; or (5) the cessation of dependent child coverage under the terms of the plan (e.g., upon attainment of majority).

A qualified beneficiary must, under the bill, elect continuation coverage no later than 60 days after the later of (1) the date on which the coverage terminates by reason of the qualifying event or the date the plan administrator notifies the qualified beneficiary of

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the qualifying event (if later). Provided the qualified beneficiary elects to continue coverage within the 60-day election period, the continuation coverage must be effective as of the date of the qualifying event.

If the qualified beneficiary who elects continuation coverage is the covered employee (in the case of a separation from service or a reduction of hours) or the spouse of the covered employee, then the election is deemed to include an election on behalf of any other qualified beneficiaries (i.e., the spouse and children of the employee).

The period of continuation coverage is required to extend for the period beginning on the date of the qualifying event and ending not earlier than the earliest of (1) 18 months after the date of the qualifying event (in the case of a reduction of hours or separation from service) or 36 months after the date of the qualifying event (in the case of any other qualifying event), (2) the date on which the employer terminates all group health plans, (3) the date on which coverage ceases because of a failure to make timely premium payments, (4) the date on which the qualified beneficiary first becomes covered under any other group health plan or becomes entitled to Medicare benefits, and (5) in the case of a qualified beneficiary who is a spouse of the employee, the date on which the spouse remarries and becomes covered under another group health plan.

Costs of continuation coverage

Under the Act, some or all of the cost of continuation coverage could be charged to the qualified beneficiary. In no event may the cost charged to the qualified beneficiary exceed 102 percent of the applicable premium. The applicable premium is defined as the cost to the plan for the period of coverage for a similarly situated beneficiary with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

In the case of a self-insured plan, the applicable premium for any period of continuation coverage is equal to a reasonable estimate of the cost of providing coverage to similarly situated beneficiaries, determined on an actuarial basis and taking into account such factors as the Secretary prescribes in regulations. If the plan administrator elects, the applicable premium for any period of continuation coverage is equal to (1) the cost to the plan for similarly situated beneficiaries for the same period occuring during the preceding determination period, adjusted by (2) the percentage change in the implicit price deflator of the gross national product for the 12-month period ending on the last day of the sixth month of such preceding determination period. A plan administrator may not elect to have the alternative test apply in any case in which there is a significant difference in coverage for the preceding determination period. The determination period is the 12 month period for which the applicable premium is determined.

Definition of qualified beneficiary

The Act generally defines qualified beneficiaries to include the spouse and dependent children of an employee entitled to coverage under the terms of the group health plan. In addition, the covered

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employee is a qualified beneficiary entitled to elect continuation coverage upon termination of employment.

Notice requirements

Under the Act, a group health plan is required to provide, at the time of commencement of coverage under the plan, written notice to each covered employee and the employee's spouse of the right to any continuation coverage upon the occurrence of a qualifying event.

The employer of any employee covered under a group health plan is required to notify the plan administrator within 30 days after the occurrence of the following qualifying events: (1) the death of the employee, (2) the separation from service or reduction of hours of the employee, or (3) the commencement of entitlement to Medicare benefits. In the case of the occurrence of any other qualifying event, the covered employee or qualified beneficiary is responsible for notifying the plan administrator of such occurrence.

The plan administrator is required to notify (within 14 days after the plan administrator is notified of the occurrence of a qualifying event) any qualified beneficiary of the beneficiary's rights to continuation coverage.

Conforming amendments

The Act makes changes under the Employee Retirement Income Security Act of 1974 (ERISA) similar to the provisions of the Internal Revenue Code relating to continuation coverage. Thus, a plan sponsor of a group health plan is required, under ERISA, to provide continuation coverage to qualifying beneficiaries.

In addition, the Act modifies the Public Health Service Act to require that any group health plan maintained by any State that receives funds under the Public Health Service Act, or by any agency or instrumentality of such a State or political subdivision, is required to provide that each qualified beneficiary is entitled to elect continuation coverage under the same conditions as such continuation coverage is required under the Internal Revenue Code and ERISA.

Effective Date

The provision generally applies for plan years beginning after June 30, 1986. In the case of a group health plan maintained pursuant to one or more collective bargaining agreements, the provision does not apply to plan years beginning before the earlier of (1) the date the last of the collective bargaining agreements terminate, or (2) January 1, 1987.

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P. Pension Benefit Guaranty Corporation (PBGC) Provisions

1. PBGC premiums (sec. 11005 of the Act and sec. 4006 of the Employee Retirement Income Security Act (ERISA) of 1974)

Present and Prior Law

Under prior law, a private single-employer defined benefit pension plan generally paid to the Pension Benefit Guaranty Corporation (PBGC) an annual per-participant premium of $2.60.

The Employee Retirement Income Security Act of 1974 (ERISA) permits the PBGC to provide for a risk-related premium (within limits).

Explanation of Provision

Premium increase.—The Act increases the annual per-participant premium for single-employer plans to $8.50.

Study of premium structure.—The Act requires that the PBGC study the premium structure (including the feasibility of a risk-related premium) and make recommendations for change, if necessary. Under the Act, an advisory group is to analyze and critique the study. The study is to be filed with the advisory group no later than one year after April 7, 1986, and the advisory group's report is due to the Congress no later than 6 months after the PBGC submits its report to the advisory group.

Effective Date

The Act provides that the increase in the PBGC premium is effective for plan years commencing after December 31, 1985.

2. Single-employer pension plans (secs. 11006-11012 of the Act, secs. 4041, 4042, 4062, and new sec. 4049 of ERISA, and sec. 404 of the Code)

a. Clarification of authority to freeze plans

Prior Law

Under prior law, in the absence of a contractual obligation, an employer was not required to provide participants with advance notice of a plan amendment to reduce significantly future benefit accruals.

Explanation of Provision

Under the Act, an amendment to reduce significantly future benefit accruals under a plan is not effective unless, subsequent to the adoption of the amendment and at least 15 days prior to the effective date of the amendment, the plan administrator gives written

notice of the reduction to each participant in the plan, to each beneficiary who is an alternate payee under a qualified domestic relations order, and to each employee organization representing participants in the plan. This notice requirement does not apply under the Act to any amendment (or portion thereof) to reduce plan benefits retroactively (sec. 412(c)(8) of the Code and sec. 302(c)(8) of ERISA).

Effective Date

The provision applies to plan amendments adopted on or after January 1, 1986. The Act contains a special transition rule for plan amendments adopted on or after January 1, 1986, and on or before the date of enactment (April 7, 1986).

b. Voluntary plan terminations

Present and Prior Law

Restrictions on plan termination.—Under prior law, subject to contractual obligations, an employer generally could terminate a plan at any time upon satisfaction of the procedural requirements described below.

Employer liability under a terminated plan.—Under prior law, if a single-employer defined benefit pension plan was terminated with assets sufficient to pay benefits at the level guaranteed by the PBGC (described below), the employer had no further liability to either the PBGC or plan participants (absent some further contractual obligation).

Under prior law, if a single-employer defined benefit pension plan was terminated with insufficient assets to pay benefits at the level guaranteed by the PBGC, then the employer was liable to the PBGC for the insufficiency, but the employer's liability was limited to 30 percent of the employer's net worth (determined as of the date of termination). The 30-percent limit applied whether or not the employer remained in business after the plan was terminated.

Under present law and prior law, an employer's liability for amounts due to the plan under the minimum funding standards of ERISA is not limited to 30 percent of the employer's net worth.

PBGC guaranteed benefits.—Under present law and prior law, subject to limits, the PBGC guarantees basic benefits under a plan. Basic benefits consist of nonforfeitable retirement benefits other than those benefits that become nonforfeitable solely on account of the termination of the plan. Guaranteed benefits are limited to basic benefits of $750 per month adjusted for inflation since 1974.

PBGC guarantees do not apply with respect to benefits in effect for fewer than 60 months at the time of plan termination unless the PBGC finds substantial evidence that the plan was terminated for a reasonable business purpose and not for the purpose of securing increased guaranteed benefits for participants. In cases in which they apply, guarantees are phased in under present law and prior law at the rate of $20 per month or 20 percent per year (whichever is greater) for (1) basic benefits that have been in effect for less than 60 months at the time the plan terminates, or (2) any increase in the amount of basic benefits under a plan resulting

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from a plan amendment within 60 months before the date of plan termination.

Notice of termination.—Under prior law, an employer was required to file a Notice of Intent to Terminate (NOIT) a plan with the PBGC not less than 10 days prior to the proposed date of termination. Participants and beneficiaries were required to be notified of the termination no later than the date that the NOIT was filed with the PBGC.

Distributions.—Under prior law, at least 30 days prior to the proposed date of distribution, the plan administrator was required to submit projected asset and liability data demonstrating that the plan held sufficient assets t. pay guaranteed benefits as of the proposed date of distribution.

Within 90 days after the proposed termination date, the PBGC was to notify the plan administrator as to whether plan assets were sufficient to satisfy plan obligations. This period could be extended by mutual agreement of the plan administrator and the PBGC. If the PBGC failed to issue a notice of sufficiency during the 90-day statutory period and the parties failed to agree to extend the 90-day period, the employer could distribute plan assets upon the expiration of the 90-day period.

Post-distribution audit.—Under prior law, the plan administrator was required to certify to the PBGC within 60 days of the date of distribution that plan assets had been allocated and distributed in accordance with the requirements of ERISA. The PBGC could, in its discretion, conduct a post-distribution audit of a terminated plan.

Explanation of Provision

Restrictions on plan terminations.—Under the Act, an employer may only terminate a single-employer defined benefit pension plan under which benefits are guaranteed by the PBGC in a "standard termination" or in a "distress termination." A standard termination is permitted only if the plan holds assets sufficient to pay all benefit commitments under the plan.

Under the Act, benefit commitments include all guaranteed benefits (including qualified preretirement survivor annuities) and all benefits that would be guaranteed but for the insurance limits on the amount or value of the benefit, or the length of time that the benefit has been in effect. In addition, benefit commitments include certain additional benefits for which a participant has satisfied all conditions of entitlement prior to termination, irrespective of whether those benefits are guaranteed.

A plan with assets insufficient to provide benefit commitments may be terminated in a distress termination only if the PBGC determines that each contributing sponsor (as defined in the Act) and each substantial member (as defined in the Act) of the contributing sponsors' controlled groups satisfy at least one of four distress standards described in the Act.

Employer liability under a terminated plan.—Upon the termination of a plan, pursuant to a standard termination in which all benefit commitments are fully funded, the employer has no further liability to the PBGC or to plan participants.

Liability to PBGC.—Under the Act, upon the termination of a plan, pursuant to a distress termination, with assets insufficient to fund benefits guaranteed by the PBGC, each contributing sponsor and each member of their controlled groups is liable to the PBGC for the sum of (1) the outstanding balance of any accumulated funding deficiency, and (2) the balance of the amount of any waived funding deficiencies. The full amount of such liability is due and payable to the PBGC as of the date of plan termination.

In addition, upon the termination of a plan pursuant to a distress termination, each contributing sponsor of the plan and each member of the controlled group of each contributing sponsor is jointly and severally liable to the PBGC for the sum of (1) the total amount of all unfunded guaranteed benefits, up to 30 percent of the collective net worth of those persons liable to the PBGC; (2) an amount equal to the excess (if any) of (a) 75 percent of the total amount of all unfunded guaranteed benefits over (b) the amount described in (1); and (3) interest on the amount due calculated from the termination date. For purposes of computing the total amount of unfunded guaranteed benefits, any accumulated funding deficiency and the balance of any waived funding deficiency are treated as receivables of the plan and, thus, as plan assets.

Under the Act, the full amount of the liability to the PBGC for unfunded guaranteed benefits is generally due and payable as of the date of plan termination. However, the Act provides that if the liability to the PBGC for unfunded guaranteed benefits exceeds 30 percent of the collective net worth of the parties that are liable to the PBGC, then the payment of that excess amount is to be made under commercially reasonable terms prescribed by the PBGC. The parties are to make a reasonable effort to reach agreement on such terms. Any terms prescribed by the PBGC are to provide for the deferral of 50 percent of any amount of liability otherwise payable for any year if the PBGC determines that no person subject to such liability has individual pretax profits for the fiscal year ending during such year.

Liability to participants.—The Act provides that if the PBGC determines that there is an "outstanding amount of benefit commitments," the PBGC is required to appoint a fiduciary with respect to a special termination trust. The fiduciary must be independent of the contributing sponsors (and members of a controlled group including sponsors) and generally is subject to the fiduciary requirements of ERISA (other than the prohibited transaction rules of section 406(a) of ERISA). The term "outstanding amount of benefit commitments" under a plan is defined as the excess of (1) the actuarial present value of the benefit commitments of each participant and beneficiary over (2) the actuarial present value of the benefits of each participant and beneficiary that are guaranteed by the PBGC or to which assets of the plan have been allocated under the distribution procedures of section 4044 of ERISA. Each contributing sponsor of the plan and each member of the controlled group of a contributing sponsor is jointly and severally liable to the termination trust for the lesser of (1) 75 percent of the total amount of outstanding benefit commitments under the plan, or (2) 15 percent of the total amount of benefit commitments under the plan. Under the Act, the termination trust generally will be administered by

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the PBGC except in cases in which PBGC determines that delegation of this responsibility is cost effective.

Under the Act, payment of liability for outstanding benefit commitments is to be made under commercially reasonable terms prescribed by the fiduciary of the termination trust. The parties are required to make a reasonable effort to reach agreement on terms. In addition, the Act describes special safe-harbor terms in those cases in which liability to the termination trust is less than $100,000.

The Act also provides that any payment schedule is to provide for the deferral of 75 percent of the liability otherwise payable to the termination trust for any year if no person subject to liability to the termination trust has any individual pre-tax profits for that person's fiscal year ending during such year.

The Act provides rules governing the allocation and distribution of assets of the termination trust to participants and beneficiaries.

Deductibility of payments.—The Act provides rules providing for the deductibility of payments to the PBGC and the termination trust.

Notice.—The Act provides that in the case of either a standard or distress termination, not less than 60 days before a proposed termination date, a plan administrator is required to give written notice of the proposed termination to plan participants, to beneficiaries of deceased participants, beneficiaries who are alternate payees, and to each employee organization representing participants in the plan. In addition, in the case of a distress termination, the plan administrator is to provide the PBGC with written notice of the proposed termination not less than 60 days before the proposed termination date.

Collective bargaining agreement restrictions.—The Act provides that the PBGC may not proceed with the voluntary termination of a plan if the termination would violate the terms and conditions of a collective bargaining agreement.

Distributions.—In the case of a standard termination, as soon as practicable after the notice of intent to terminate is provided, the plan administrator is required to provide the PBGC with certification by an enrolled actuary of the plan's sufficiency as of the plan's proposed date of distribution.

The plan administrator is permitted to distribute plan assets upon the expiration of the 60-day period following the date that the certification of sufficiency is filed with the PBGC, provided that the PBGC has not issued a notice of noncompliance with respect to the plan, and the parties have not agreed to extend the 60-day period.

Under a special transition rule, in the case of a standard termination with respect to which a notice of intent to terminate is provided before 120 days after the date of enactment. the PBGC may without the consent of the plan administrator extend the 60-day period for a period not to exceed 60 days.

Notice of benefit computations to participants.—No later than the date upon which the plan administrator provides the PBGC with certification by an enrolled actuary of the plan's sufficiency, the plan administrator must also send to each participant or beneficiary a notice specifying the amount and form of such person's bene-

fit commitment (if any) as of the proposed termination date and the data used in determining such benefits.

Post distribution audit.—The plan administrator is required, within 30 days after the final distribution of assets, to file a notice with the PBGC certifying that assets have been allocated and distributed in accordance with the requirements of ERISA.

In addition, under the Act, the PBGC is required to perform an annual audit of a statistically significant sample of terminated plans to determine whether participants and beneficiaries have received the benefits to which they are entitled. For each plan selected for audit, the benefits of a statistically significant sample of participants and beneficiaries are to be verified.

In addition, the Act authorizes the Comptroller General of the General Accounting Office to examine certain plan documents. Any information gathered under this authority is not to be available to the public.

Effective Date

The provisions are effective January 1, 1986, except that such provisions do not apply with respect to terminations for which notices of intent to terminate were filed with the PBGC before such date.

The Act contains special transition rules in the case of terminations for which Notices of Intent to Terminate were filed on or after January 1, 1986, but before the date of enactment (April 7, 1986).

c. Involuntary plan terminations

Prior Law

Under prior law, the PBGC was permitted, but not required, to commence proceedings to terminate a plan if the plan was unable to pay benefits when due.

Explanation of Provision

Under the Act, the PBGC is required to commence termination proceedings if the plan does not have assets available to pay benefits that are currently due under the terms of the plan.

Effective Date

The provision is effective with respect to involuntary plan terminations instituted after January 1, 1986.

3. Waiver of funding standard (sec. 11015 of the Act, secs. 303 and 304 of ERISA, and sec. 412 of the Code)

Present and Prior Law

Present law authorizes the Internal Revenue Service to waive the requirements of the minimum funding standard for no more than 5 out of 15 plan years. In addition, the amortization period for liabilities under defined benefit pension plans may be extended, and a waiver previously granted by the IRS may be modified.

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The IRS may grant a waiver on condition that appropriate requirements are met.

Explanation of Provision

The Act clarifies that the IRS is authorized to require that security be provided as a condition of granting a waiver of the minimum funding standard, the extension of an amortization period, or modification of a previously granted waiver of the minimum funding standard with respect to a single employer defined benefit plan. The Act requires that, before granting an application for a waiver, extension or modification to a single employer defined benefit plan, the IRS notify the PBGC of the receipt of a completed application for a waiver, extension, or modification, and consider the views of any interested party, including the PBGC, submitted in writing. The PBGC has a 30-day period after the date of receipt of notice to submit comments to the IRS on the application.

Under the Act, the security, notice, and comment provisions do not apply if, with respect to the plan for which a waiver is requested, the sum of (1) the outstanding balance of any accumulated funding deficiencies (including the amount of any increase in the accumulated funding deficiency that would result if the request for a waiver were denied); (2) the outstanding balance of any previously waived funding deficiencies; and (3) the outstanding balance of any decreases in the minimum funding standard allowed under section 304 of ERISA or section 412(d) of the Code, is less than $2 million.

Effective Date

The provisions are effective with respect to applications for waivers, extensions, and modifications filed on or after the date of enactment (April 7, 1986).

4. Special enforcement provision and evasion of liability rules (secs. 11013 and 11014 of the Act and new secs. 4069 and 4070 of ERISA)

Prior Law

Under prior law, ERISA did not contain any provision expressly conferring upon an adversely affected party a private right of action to enjoin certain acts or practices of any party in violation of the employer liability provisions.

Explanation of Provision

Special enforcement provision.—The Act adds a new section to ERISA that expressly confers, upon an adversely affected plan fiduciary, employer, employee organization representing plan participants, contributing sponsor, participant or beneficiary, a private right of action to enjoin certain acts or practices of any party in violation of the employer liability provisions. Other appropriate equitable relief may also be provided by a court. The Act also provides for venue and for awards of attorney's fees and expenses under certain circumstances.

A copy of the complaint in any action under these provisions is required to be served on the PBGC. The PBGC may intervene in the action.

Evasion of liability rule.—In addition, the Act provides rules designed to prevent the evasion of employer liability in connection with a plan termination.

Effective Date

The special enforcement provision is effective with respect to actions filed after April 7, 1986.

The evasion of liability provision is effective with respect to transactions becoming effective on or after January 1, 1986.

5. Special rule for pending cases (sec. 11008(d) of the Act)

Explanation of Provision

In the case of an employer that (1) filed an NOIT with the PBGC prior to January 1, 1986, to whom the PBGC had not issued a notice of sufficiency for such plan before the date of enactment of the Act, or (2) files an NOIT in a termination on or after January 1, 1986, and before 60 days after enactment, and to whom the PBGC has not issued a notice of sufficiency for such plan before the date of enactment, the Act provides that the processing of the plan is to be delayed if the lesser of 200 or 10 percent of plan participants file complaints with respect to the termination and the employer is to receive a reversion of surplus assets in excess of $1 million.

Under the Act, the plan administrator of such a plan is not permitted to distribute plan assets until the PBGC determines and issues a notice of sufficiency providing that plan assets are sufficient to fund benefit commitments. The PBGC generally is not permitted to issue a notice of sufficiency to the plan until 90 days subsequent to the date that the PBGC determines the plan to be sufficient, unless the employer demonstrates that it is experiencing substantial business hardship. During this additional 90-day period, the PBGC is required to consider and respond to participants' complaints.

Effective Date

The provision is effective on the date of enactment (April 7, 1986).

6. Plan assets (sec. 11018 of the Act)

Present Law

Generally, under present law, the assets of an employee benefit plan must be held in trust for the exclusive benefit of plan participants. Those individuals or entities with discretion over the management and disposition of plan assets are subject to fiduciary standards specified by ERISA. In addition, ERISA prohibits certain transactions involving self-dealing or conflicts of interest. The prohibitions may in some instances be waived by the Secretary of Labor.

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Proposed regulations issued by the Secretary of Labor define plan assets for purposes of the fiduciary standards and prohibited transaction rules of ERISA. Under the regulations, if a plan acquires an equity interest in certain types of entities, the investing plan's assets are considered to include both its investment and an undivided interest in each of the underlying assets of the entity. The regulation is effective for purposes of identifying plan assets on or after 90 days following publication of the final regulation.

Explanation of Provision

The Act provides relief from the regulatory definition of plan assets. The relief applies to to certain publicly held real estate entities.

Except as a defense, no rule or regulation adopted after April 7, 1986, that defines the term "plan assets" for purposes of ERISA is to apply to any asset of certain public real estate programs if investments by plan investors in the program occur before the expiration of a specified period of time following the issuance of such rule or regulation. A plan investor is any plan, account, or arrangement (including an individual retirement account).

The transitional relief provided in the Act for certain real estate entities is limited to regulations which the Secretary of Labor currently has under consideration. The Act instructs the Secretary to adopt final regulations pursuant to the proposal by December 31, 1986.

Effective Date

The provision is effective on the date of enactment (April 7, 1986).

7. Study of terminations of overfunded pension plans (sec. 11017 of the Act)

Explanation of Provision

The Act requires that the Department of Labor conduct a study of terminations of overfunded pension plans. The Department is required to submit a report on the study, together with any recommendations for statutory changes, to the House Committee on Ways and Means, the House Committee on Education and Labor, the Senate Committee on Finance, and the Senate Committee on Labor and Human Resources by May 1, 1986.

Effective Date

The provision is effective on the date of enactment (April 7, 1986).

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III. ESTIMATED BUDGET EFFECTS OF THE REVENUE PROVISIONS OF THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985; FISCAL YEARS 1986–1991

[Millions of dollars]

Provision	1986	1987	1988	1989	1990	1991	1986–88	1986–91
A. Tobacco Excise Taxes:								
1. Cigarette tax rates	755	1,682	1,686	1,700	1,705	1,710	4,123	9,238
2. Tax on smokeless tobacco	7	15	15	16	16	16	37	85
B. Coal Excise Tax (Black Lung Trust Fund)	15	35	37	38	40	42	87	207
C. Exemptions from FUTA Tax	(1)	(1)	(1)	(1)	(1)	(1)	(4)	(4)
D. Medicare Coverage of State and Local Employees	22	178	321	460	628	769	521	2,378
E. Extension of Moratorium on R&E Regulation	−191	−96					−287	−287
F. Fringe Benefit Rules (Parents of Airline Employees; Airline Affiliate Employees)	(2)	(3)	(3)	(3)	(3)	(3)	(4)	(4)
G. Netting for Certain Cooperatives	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)
H. Railroad-Related Provisions:								
1. Railroad retirement benefits	28	58	63	66	66	64	149	345
2. Railroad unemployment repayment tax		101	98	4			199	203
I. Income Averaging for Former Students	133	541	589	630	674	721	1,263	3,288
J. Tax-Exempt Bonds for a Regional Pollution Control Authority	−1	−2	−3	−3	−3	−3	−6	−15
K. Minimum Tax for Insolvent Farmers	−3	−9	−16	−23	−29	−35	−28	−115
L. Limitation on Issuance of U.S. Bonds								
M. Increase in IRS Budget	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)
N. Social Security Coverage and Revenue Provisions:								
1. Exemption from Social Security tax for retired Federal judges on active duty	(1)	(1)	(1)	(1)	(1)	(1)	(4)	(4)
2. Coverage of Connecticut State police	(5)	(7)	(7)	(7)	(7)	(7)	(8)	(8)

3. Taxation of Social Security benefits received by citizens of American Samoa	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)
O. Continued Health Plan Coverage	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)
Subtotal, Revenue Receipts	**765**	**2,503**	**2,790**	**2,888**	**3,097**	**3,284**	**6,058**	**15,327**
P. Pension Benefit Guaranty Corporation (PBGC) Provisions [9]	174	231	261	294	332	375	666	1,667
Total Budget Effect	**939**	**2,734**	**3,051**	**3,182**	**3,429**	**3,659**	**6,724**	**16,994**

[1] Reduce revenues by less than $5 million.
[2] Reduce revenues by less than $10 million.
[3] Reduce revenues by less than $15 million.
[4] The revenue estimates for footnotes 1–3 ("less than $—million") are not included in the totals for each year or for the 3- or 5-year totals.
[5] Negligible.
[6] Revenue and outlay effects depends on actual IRS fiscal year appropriations.
[7] Increase revenues by less than $1 million.
[8] Increase revenues by less than $5 million.
[9] Effects represent negative outlays.

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